



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0373	Title:	Sexual predator regulation
Primary Sponsor:	Gillan, Kim	Status:	As Introduced

- | | | |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$438,000	\$438,000	\$438,000	\$438,000
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>(\$438,000)</u>	<u>(\$438,000)</u>	<u>(\$438,000)</u>	<u>(\$438,000)</u>

Description of Fiscal Impact:

The fiscal impact in FY 2008-2011 would result from contracting with additional Sex Offender Treatment Specialists to handle the increase of offenders required to successfully complete sex offender treatment.

In accordance with Title 47, the Office of the State Public Defender provides attorney services to clients that qualify for them. This bill increases penalties, resulting in an increased workload for each case. Additionally, this bill would increase the need to provide attorneys services because the statute, if enacted, would increase the probability of defendants requesting trials due to the increased penalties provided in the bill.

FISCAL ANALYSIS

Assumptions:

Department of Corrections (DoC)

1. This bill imposes a sentence of imprisonment for 100 years for the crime of sexual intercourse without consent and sexual abuse of children where the victim is 12 or under. At minimum, the first 25 years of the sentence may not be deferred or suspended, the balance of 100 years that is not deferred or suspended will be spent on lifetime probation. Lifetime probation will not occur until at least FY 2034.
2. The current average prison sentence for offenders convicted of these sex crimes is six years. DOC estimates 5 offenders will enter prison each year for the above crimes. An increase in cost for these five offenders will occur in FY 2015, six years after the bill's effective date of 1/1/2008 based on the average length of stay for these sex crimes. The cost in FY 2015 is estimated to be \$80,281 based on five offenders each year at \$75.88 per day. Long-term impact of sentencing sex offenders to a minimum 25 year sentence is estimated to be \$2,653,220 by FY 2034. DOC estimates this number by compounding the five offenders each year so the cost in the second year would be based on 10 offenders, 15 in the third year, 20 in the fourth, etc.
3. All levels of sex offenders must enroll in and successfully complete sex offender treatment [SOP] Phase I to be eligible for parole. Under this bill, level 3 sex offenders are eligible for parole only upon completion of sex offender treatment Phase II.
4. SOP Phase I takes 16 weeks to complete and SOP Phase II takes two years to complete. MSP is the only facility in Montana that provides SOP Phase II and currently has a waiting list of approximately 250 offenders for SOP Phase I and SOP Phase II treatment. If this bill passes and treatment is not completed before the offender's parole date, the offender's prison stay could be extended. Currently 68 offenders at Montana State Prison [MSP] have paroled or discharged their sentences without completing SOP Phase I, SOP Phase II or both. If this bill becomes law an offender would have a liberty interest in being able to complete treatment by the time he/she is parole eligible.
5. DOC estimates an additional 7,584 hours of treatment would be needed to accommodate the mandates of this bill and allow offenders to complete treatment prior to their parole dates. The number of treatment hours needed is calculated by multiplying 68 offenders who will need to complete SOP Phase I by two hours per week for 16 weeks for a total of 2,176 hours. Also 13 offenders will need to complete SOP Phase II for four hours per week for 104 weeks for a total of 5,408 hours. SOP Phase II requires treatment specialists to be Montana Sex Offender Treatment Association (MSOTA) clinical members. Additional Sex Offender Treatment contracts would be needed in order to provide SOP Phase I and Phase II for an extra 68 sex offenders in prison each year who need treatment. These contracts would cost approximately \$288,000 per year.
6. This bill also allows level 1 and 2 sex offenders to be sentenced to DOC for placement in a sex offender treatment facility for up to four years. The availability of a sex offender treatment facility is dependent on whether funding is approved by the legislature for the department to contract for the construction of up to a 200 bed facility. An increase in cost could result from level 1 and 2 sex offenders who, under current law, would be sentenced to probation, could now be sentenced to the sex offender treatment facility. It is difficult to determine how many offenders would be affected. It is also difficult to determine fiscal impact because a judge can still sentence a level 1 or 2 sex offender to probation, to a treatment facility, or to prison.

Office of the Public Defender (OPD)

7. OPD estimates approximately 1,000 cases, annually, might be affected by this bill. Approximately 50% of these cases would be handled internally by FTE, and the balance of 50% would be handled by contract attorneys at an average of \$60.00 per hour. The estimated increased time without trials would be

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approximately 5 hours, on an average, per case. For those cases taken to trial the increased time per case would range from 10 to 20 hours per case.

8. Est. 1,000 cases x .50(to contracted attny's) x 5 hrs x \$60/hr = \$150,000 (if no cases are taken to trial)
9. Est. 1,000 cases x .50(to contracted attny's) x 20 hrs x \$60/hr = \$600,000 (if every case went to trial w/20 additional hours)
10. Costs shown for the OPD reflect assumption #8.

	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
Department of Corrections (DoC) & Office of Public Defender (OPD)				
<u>Expenditures:</u>				
Operating Expenses - DoC	\$288,000	\$288,000	\$288,000	\$288,000
Operating Expenses - OPD	<u>\$150,000</u>	<u>\$150,000</u>	<u>\$150,000</u>	<u>\$150,000</u>
TOTAL Expenditures	<u>\$438,000</u>	<u>\$438,000</u>	<u>\$438,000</u>	<u>\$438,000</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$438,000	\$438,000	\$438,000	\$438,000
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$438,000)	(\$438,000)	(\$438,000)	(\$438,000)

Long-Range Impacts:

Long term fiscal impact would result from an increase in minimum sentence to 25 years for sexual abuse of children or sexual intercourse with out consent. (See assumption #2)

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date